

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED
DEC 22 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

CLERK, U.S. DISTRICT COURT
By *Sarah 1:45pm*
Deputy

UNITED STATES OF AMERICA §

v. §

BELVAN CORP. §

NO. 6:11-CR-0050-C

PLEA AGREEMENT

Belvan Corp. (Belvan), defendant, Christie N. Williams, the defendant's attorney, and the United States of America (the government), agree as follows:

1. **Rights of the defendant:** Belvan understands that it has the rights
 - a. to plead not guilty;
 - b. to have a trial by jury;
 - c. to have its guilt proven beyond a reasonable doubt;
 - d. to confront and cross-examine witnesses and to call witnesses in its defense; and
 - e. against compelled self-incrimination.

2. **Waiver of rights and plea of guilty:** Belvan waives these rights and pleads guilty to the offense alleged in the Information, charging a violation of the Clean Air Act, 42 U.S.C. § 7412(c)(2)(B), *Failure to Notify or Report*, found at 42 U.S.C. § 7413(c)(2)(B); and 18 U.S.C. § 2, *Aiding and Abetting*. Belvan understands the nature and elements of the crime to which it is pleading guilty, and agrees that the factual resume it has signed is true and will be submitted as evidence.

3. **Sentence:** The maximum penalties the Court can impose include:
 - a. a period of probation not to exceed five (5) years;
 - b. a fine not to exceed \$500,000.00, or up to twice the gross gain or loss resulting from the offense;
 - c. a mandatory special assessment of \$400.00 per count of conviction;
 - d. restitution to victims or to the community, which may be mandatory under the law, and which Belvan agrees may include restitution arising from all relevant conduct, not limited to that arising from the offense of conviction alone.

4. **Plea Agreement executed by authorized representative:** Belvan agrees and hereby represents that this Agreement is executed by an authorized representative of Belvan Corp. Belvan further agrees and represents that a Resolution duly adopted by the Board of Directors of Belvan, attached to this Plea Agreement as Exhibit A, said Exhibit A incorporated herein for all purposes as if recited in full, authorizes the signature on this Plea Agreement by said Belvan representative.

5. **Court's sentencing discretion and role of the Guidelines:** Belvan understands that the sentence in this case will be imposed by the Court after consideration of the United States Sentencing Guidelines. The guidelines are not binding on the Court, but are advisory only. Belvan has reviewed the guidelines with its attorney, but understands no one can predict with certainty the outcome of the Court's consideration of the guidelines in this case. However, pursuant to Rule 11(c)(1)(B), FED. R. CRIM. P., Belvan, the defendant's attorney, and the government agree and recommend that a sentence of five (5) years probation, and a fine in the amount of Five Hundred Thousand

Dollars USD (\$500,000.00) is appropriate in this case, said fine to be paid prior to the date of the plea of guilty. The fine shall be paid in full by Cashier's Check, made payable to the United States District Clerk for the Northern District of Texas. The Cashier's Check will be delivered to the Office of the United States Attorney, and held by the Office of the United States Attorney until the date of sentencing. On the date of sentencing, the Cashier's Check will be delivered to the United States District Clerk for the Northern District of Texas. The term of probation is recommended to allow Belvan to fully comply with the Clean Air Act requirements set forth in 42 U.S.C. § 7413(c)(2)(B) and the additional requirements set forth in Paragraph 8 of this Plea Agreement. However, Belvan understands that this recommendation is not binding on the Court. Belvan also understands that it will not be allowed to withdraw its plea if the recommendation is not adopted, if the applicable advisory guideline range is higher than expected, or if the Court departs from the applicable advisory guideline range, and the sentence is higher than expected. Belvan fully understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court. Moreover, if the government obtains evidence that makes the recommendation inappropriate, the government will disclose that evidence to the Court, and will be permitted to withdraw its recommendation without being found in breach of this Plea Agreement.

6. **Mandatory special assessment:** Prior to sentencing, Belvan agrees to pay to the United States District Clerk the amount of \$400.00, in satisfaction of the mandatory special assessment in this case.

7. **Defendant's agreement:** Belvan shall give complete and truthful information and/or testimony concerning its participation in the offense of conviction. Upon demand, Belvan shall submit a financial statement under oath and submit to interviews by the government and the United States Probation Office regarding its capacity to satisfy any fines or restitution. In addition, Belvan agrees to meet the following specific conditions of cooperation:

- a. Belvan will take all reasonable steps to make its officers and employees available to the government to participate in any and all judicial and/or administrative proceedings, and Belvan will make all reasonable efforts to ensure that its officers and employees cooperate with the investigation and truthfully disclose all information about their activities and those of others relating to the subject matter. Belvan will advise its employees that: (a) they are encouraged to cooperate; cooperation can include providing information to the government, being interviewed by government agents or attorneys, and testifying in official proceedings; (b) Belvan will grant liberal leave if necessary to facilitate their cooperation with the government; and (c) no employees will be fired, demoted, reassigned, or

otherwise suffer a reduction in pay or other benefits as a result of their cooperation with the government regarding the alleged criminal violations under investigation.

- b. Belvan will make any and all documents, records, and other technical information available to government investigators with respect to the alleged criminal violations under investigation.
- c. During the period of probation, at all reasonable times and with reasonable prior notice by the government, Belvan shall provide government agents full access to the Belvan Midway Lane Gas Plant employees to the extent such access does not violate their constitutional rights against self incrimination or preclude their right to counsel, including access to, production, and authentication of all records described in subparagraphs a. and b. herein.

8. Defendant's additional agreement: Belvan agrees to serve the full term of probation to allow it to fully comply with the environmental training described in Exhibit B, said Exhibit B incorporated herein for all purposes as if recited in full. During the term of probation, Belvan agrees that an employee or an outside third-party consultant shall conduct the Environmental Training specified in Exhibit B (Environmental Awareness training). The following personnel shall receive the training: (1) Each Officer of Belvan Corp.; (2) The Plant Foreman; and (3) Each Plant Operator for the Midway Lane Gas Plant. The person who is designated as Environmental Manager for

Belvan Corp. will be responsible to ensure that the initial training will be provided and documented during the first quarter of 2012. The initial training shall be an eight-hour training session. The Environmental Manager for Belvan Corp. will be further responsible to ensure that an additional annual follow-up consisting of a two-hour refresher course is provided and documented to all personnel that hold the positions designated above ((1) Each Officer of Belvan Corp.; (2) The Plant Foreman; and (3) Each Plant Operator for the Midway Lane Gas Plant) during each of the remaining calendar years that Belvan remains on probation.

9. Government's agreement: The government will not bring any additional charges against Belvan based upon the conduct underlying and related to the defendant's plea of guilty. The government will file a Plea Supplement in this case, as is routinely done in every case, even though there may or may not be any additional terms. This Plea Agreement is limited to the United States Attorney's Office for the Northern District of Texas, and does not bind any other federal, state, or local prosecuting authorities, nor does it prohibit any civil or administrative proceeding against Belvan or any property.

10. Violation of agreement: Belvan understands that if it violates any provision of this Plea Agreement, or if the guilty plea is vacated or withdrawn, the government will be free from any obligations of the agreement and free to prosecute Belvan for all offenses of which it has knowledge. In such event, Belvan waives any objections based upon delay in prosecution and/or the statute of limitations. If the plea is vacated or withdrawn for any reason other than a finding that it was involuntary, Belvan

also waives objection to the use against it of any information or statements provided to the government, and any resulting leads.

11. **Voluntary plea:** This plea of guilty is freely and voluntarily made and is not the result of force or threats, or of promises apart from those set forth in this Plea Agreement. There have been no guarantees or promises from anyone as to what sentence the Court will impose.

12. **Waiver of right to appeal or otherwise challenge sentence:** Except as otherwise provided, Belvan hereby expressly waives the right to appeal the conviction and/or sentence on any ground, including any appeal right conferred by 18 U.S.C. § 3742, and Belvan further agrees not to contest the conviction and/or sentence in any post-conviction proceeding, including, but not limited to, a proceeding under 28 U.S.C. §§ 2241 and 2255. Belvan, however, reserves the right to appeal the following: (a) any punishment imposed in excess of the statutory maximum, and (b) any claim based on ineffective assistance of counsel.

13. **Representation of counsel:** Belvan has thoroughly reviewed all legal and factual aspects of this case with its lawyer and is fully satisfied with the lawyer's legal representation. Belvan has received from its lawyer satisfactory explanations concerning each paragraph of this Plea Agreement, each of its rights affected by this Agreement, and the alternatives available to Belvan other than entering into this Agreement. Because Belvan concedes that it is guilty, and after conferring with its lawyer, Belvan has

concluded that it is in its best interest to enter into this Plea Agreement and all its terms, rather than to proceed to trial in this case.

14. **Entirety of Agreement:** This document is a complete statement of the parties' agreement and may not be modified unless the modification is in writing and signed by all parties.

AGREED TO AND SIGNED this 22 day of December, 2011.

BELVAN CORP.

BELVAN CORP.

Defendant

By: Richard D. Hatchett

Richard D. Hatchett

Executive Vice President of Belvan Corp.
Corporate Representative for Belvan Corp.

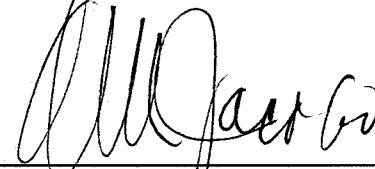
Christie N. Williams

CHRISTIE N. WILLIAMS

Attorney for Defendant

Texas State Bar No. 00785254

SARAH R. SALDAÑA
UNITED STATES ATTORNEY



PAULINA M. JACOBO
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Facsimile: 806.472.7394
Email: paulina.jacobo@usdoj.gov

Denise Williams

DENISE B. WILLIAMS

Deputy Criminal Chief

Texas State Bar No. 02975990

I have read (or had read to me) this Plea Agreement and have carefully reviewed every part of it with my attorney. I fully understand it and voluntarily agree to it.

Belvan Corp. 12/22/2011
BELVAN CORP. Date
Defendant
By: Richard D. Hatchett
Richard D. Hatchett
Executive Vice President of Belvan Corp.
Corporate Representative for Belvan Corp.

I am the defendant's counsel. I have carefully reviewed every part of this Plea Agreement with the defendant. To my knowledge and belief, my client's decision to enter into this Plea Agreement is an informed and voluntary one.

Christie N. Williams 12-22-11
CHRISTIE N. WILLIAMS Date
Attorney for Defendant

EXHIBIT A

BELVAN CORP.

December 19, 2011

UNANIMOUS CONSENT OF BOARD OF DIRECTORS IN LIEU OF MEETING

Pursuant to Section 6.201 of the Texas Business Organizations Code, the undersigned, being all of the directors of this Corporation, unanimously take the following action in lieu of an annual directors' meeting:

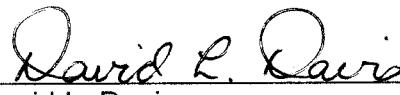
The following resolution is hereby adopted by the Board of Directors:

RESOLUTION 12.19.11.01 **AUTHORIZATION TO ACT ON BEHALF OF BELVAN CORP.**

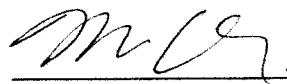
WHEREAS, Richard D. Hatchett is a duly elected and serving Executive Vice President of this Corporation, with full power and authority to act on its behalf and bind this Corporation in all matters, it is hereby

RESOLVED, that Richard D. Hatchett, as Executive Vice President, is hereby authorized to speak and act on behalf of this Corporation in connection with Cause No. 6-11CR0050-C, United States of America v. Belvan Corp., including, but not limited to, entry of a plea of guilty to the information in connection therewith.

Executed and effective as of December 19, 2011.



David L. Davis



Michael K. Davis

EXHIBIT B

Belvan Corp. - Environmental

Environmental Manager (EM) Responsibilities

Responsible for overseeing the environmental performance for Belvan Corp. This role leads the development, implementation and monitoring of environmental strategies, policies and programs that promote sustained compliance. The role reviews the whole operation, educates and trains on environmental requirements, builds the necessary programs and tools to assist Management and Plant Operations with regulatory tasks, conducts environmental audits and assessments, and works to identify and resolve potential day to day environmental issues. The EM manages Agency inspections and questions, works corrective actions and additional resolutions from resulting enforcement cases. Provides key oversight of staff/project team members to ensure they are appropriately trained, produce valuable work quality products, and assist plant personnel in managing their environmental compliance.

Environmental Awareness Training & Site Specific Training Overview

General environmental awareness training addresses the following areas:

- Basic foundation of environmental regulations including CAA, CAAA of 1990, NSPS, NESHAP, & GHG
- State air regulations overview and types of authorizations (PBR, Std Permits, NSR, & PSD)
- MSS and EE requirements
- Inspections, investigations and enforcement process

Site Specific training addresses the following areas:

- Site authorizations & resulting requirements
 - Emissions sources
 - AVO inspections
 - Fugitive leak monitoring
 - SRU minimized operations
 - Acid gas compression requirements
- Emissions event reporting process & site specific examples
 - Inlet gas versus acid gas flaring
- RICE MACT rule requirements
 - Sources impacted
 - Project implementation